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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Argentina, Bosnia and Herzegovina,* Cyprus,* Germany, Guatemala,* Honduras,* Ireland, Kenya, Mexico, Montenegro, Paraguay, Peru,* Philippines,* Portugal, Uruguay:* draft resolution

29/... Protection of the human rights of migrants: migrants in transit

The Human Rights Council,

Reaffirming the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Vienna Convention on Consular Relations, the Convention on the Rights of Persons with Disabilities, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the United Nations Convention against Transnational Organized Crime and the protocols thereto, in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,

Recalling also previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on the protection of the human rights of all

* Non-member State of the Human Rights Council.

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migrants, and the work of the various special mechanisms of the Council that have reported on the situation of the human rights and fundamental freedoms of migrants,

Reaffirming that the Universal Declaration of Human Rights proclaims that everyone has the right to freedom of movement and residence within the borders of each State and the right to leave any country, including his or her own, and to return to his or her country,

Reaffirming also that everyone is entitled to all human rights and fundamental freedoms, without distinction of any kind, wherever the person is and regardless of his or her immigration status,

Recognizing that States are responsible for promoting and protecting the human rights of all persons, including irregular migrants, who are in their territory and subject to their jurisdiction,

Recognizing also the shared responsibilities of countries of origin, transit and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability,

Deeply concerned at the large and growing number of migrants, including women and children, who have lost their lives or have been injured in attempting to cross international borders, and recognizing the obligation of States to protect and respect the human rights of those migrants, regardless of their immigration status,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to border control and the orderly management of migration, must be in accordance with international human rights obligations in order to uphold the human rights and fundamental freedoms of all migrants,

Recalling the recommended principles and guidelines on human rights at international borders prepared by the Office of the United Nations High Commissioner for Human Rights,

Expressing its concern at measures that, including in the context of policies aimed at reducing irregular migration, treat irregular migration as a criminal rather than an administrative offence, where the effect of doing so is to deny migrants the full enjoyment of their human rights and fundamental freedoms,

Welcoming the important results of the second High-level Dialogue on International Migration and Development, held on 3 and 4 October 2013,

Reaffirming the Declaration of the High-level Dialogue on International Migration and Development, adopted by the General Assembly at its sixty-eighth session,[1] which acknowledges the important contribution of migration in realizing the Millennium Development Goals and recognizes that human mobility is a key factor for sustainable development, which should receive due consideration in the elaboration of the post-2015 development agenda,

Reaffirming also the commitment to take action to avoid the loss of life of migrants, including by preventing and combating the smuggling of migrants and trafficking in persons by disrupting the criminal networks involved and improving cooperation on prevention, the prosecution of traffickers and smugglers, the protection of the rights of victims of trafficking and the human rights of migrants who have been the object of smuggling and protecting migrants from exploitation and other abuses,

[1] General Assembly resolution 68/4.

Noting the expertise in the field of migration of the International Organization for Migration and the other member agencies of the Global Migration Group,

Expressing serious concern about the situation of vulnerability and risk faced by migrants in transit, in particular unaccompanied children, including adolescents, or children who have been separated from their families, who are forced to leave their homelands by multiple causes,

Recognizing the need to address the special situation and vulnerability of migrant women and girls by, inter alia, incorporating a gender perspective into policies and strengthening national laws, institutions and programmes to combat gender-based violence, including trafficking in persons and discrimination against women and girls,

Recognizing also the importance of coordinating international efforts to provide assistance and support to migrants in vulnerable situations and, as appropriate, facilitate the voluntary return to their countries of origin or procedures for determining the need for international protection while respecting the principle of non-refoulement,

Taking note of the seventh Global Forum on Migration and Development, which emphasized the importance of facilitating access to regular forms of migration and, where applicable, to social services, including health goods, services and conditions, that contribute to the prosperity of countries of origin, transit and destination and to the strengthening of the empowerment and personal development prospects and outcomes for migrants and their families,

Acknowledging the important role that migrants play as partners in the development of origin, transit and destination countries, and recognizing the need to improve public perceptions of migrants and migration,

Mindful of the fact that, in the fulfilment of their obligations to protect human rights, States of origin, transit and destination can benefit from schemes of international cooperation,

Noting with appreciation the actions taken by several special procedures of the Human Rights Council and the treaty bodies for the effective prevention of violations of the human rights of migrants, including through joint statements and urgent appeals, and encourages them to continue their collaborative efforts within their respective mandates to this end,

Recognizing the cultural and economic contributions made by migrants to receiving societies and their communities of origin and the need to identify appropriate means of maximizing development benefits and responding to the challenges that migration poses to countries of origin, transit and destination, and committing to ensuring dignified, humane treatment with applicable protections and to strengthening mechanisms for international cooperation,

1. *Recalls with appreciation* the report of the Special Rapporteur on the human rights of migrants,[2] invites States to give due consideration to the recommendations contained therein, and welcomes his work;

2. *Calls upon* States that have not yet done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a matter of priority, and requests the Secretary-General to continue his efforts to promote and raise awareness of the Convention;

[2] A/HRC/26/35.

3. *Also calls upon* States that have not yet done so to consider ratifying or adhering to the United Nations Convention against Transnational Organized Crime and its protocols, in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

4. *Reaffirms* the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party;

5. *Expresses concern* at legislation and measures adopted by some States that may adversely affect the full enjoyment of the human rights and fundamental freedoms of migrants, including those in transit;

6. *Reaffirms* that, when exercising their sovereign right to enact and implement migration and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

7. *Calls upon* all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination, including by taking steps:

(*a*) To promote and protect the human rights of all migrants, including migrants in transit, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, regardless of their immigration status, and to create a safe and enabling environment in which individuals and organizations that provide such attention can operate free from hindrance and insecurity;

(*b*) To adopt effective measures to prevent and punish any form of illegal deprivation of liberty of migrants by individuals or groups within the territory and jurisdiction of the State;

(*c*) To the effect that domestic law and administrative provisions and their application facilitate the work of all actors providing humanitarian assistance to and defending the human rights of irregular migrants, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to international human rights law;

(*d*) To adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and other transit areas for migration, and to adequately train public officials who work in those facilities and in border areas to treat these migrants respectfully and in accordance with their obligations under international human rights law;

(*e*) To adopt effective measures to prevent and punish the smuggling of migrants and trafficking in persons, and to reinforce cooperation and coordination at all levels to detect and suppress both the smuggling of migrants and trafficking in persons, in accordance with applicable international law;

(*f*) To ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations;

(*g*) To recognize the importance of coordinated efforts by the international community and other stakeholders to assist and support migrants stranded in vulnerable situations;

(*h*) To provide assistance to persons in distress at sea and to enhance cooperation for such purposes in accordance with applicable international law;

(*i*) To adopt a comprehensive and integral approach to migration policies and cooperate at the international level on the basis of shared responsibility to harness fully the economic developments and cultural and social opportunities that migration represents and to address efficiently its challenges in accordance with applicable international human rights standards;

8. *Encourages* the Office of the United Nations High Commissioner for Human Rights to provide technical assistance to States parties, upon request, to better promote and protect the human rights of migrants;

9. *Requests* the Office of the High Commissioner to submit to the Human Rights Council before its thirty-first session a study on the situation of migrants in transit, including unaccompanied children and adolescents, as well as women and girls, in consultation with States and other relevant stakeholders, including regional organizations, civil society organizations and national human rights institutions;

10. *Requests* the Special Rapporteur on the human rights of migrants to continue to report on practical solutions, including with respect to the situation of migrants in transit, by identifying best practices and concrete areas and means for international cooperation in order to enhance the protection of the human rights of migrants, and to continue to pay attention to the topic of the universal enjoyment of human rights for all migrants;

11. *Encourages* States and regional and international organizations to enhance cooperation with the Special Rapporteur;

12. *Decides* to remain seized of the matter.